1	KAMALA D. HARRIS		
2	Attorney General of California DIANN SOKOLOFF Supervising Deputy Attorney General		
3	Supervising Deputy Attorney General SUSANA A. GONZALES Deputy Attorney General		
4	Deputy Attorney General State Bar No. 253027 1515 Clay Street, 20th Floor	•	
5	P.O. Box 70550 Oakland, CA 94612-0550		
6	Telephone: (510) 622-2221 Facsimile: (510) 622-2270		
7	Attorneys for Complainant		
8	BEFORE THE BOARD OF REGISTERED NURSING		
9	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA		
10		000 000	
11	In the Matter of the Accusation Against:	Case No. 2013- 687	
12	JAHN DAMIEN HERRICK Post Office Box 761		
13	Opelika, AL 36803	ACCUSATION	
14	Registered Nurse License No. 561178		
15	Respondent.	·	
16			
17	Complainant alleges:		
18	PART	<u>CIES</u>	
19	1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her		
20 21	official capacity as the Executive Officer of the Board of Registered Nursing, Department of		
22	Consumer Affairs.		
23	2. On or about December 3, 1999, the Board of Registered Nursing issued Registered		
24	Nurse License Number 561178 to Jahn Damien Herrick (Respondent). The Registered Nurse		
25	License expired on February 28, 2007, and has not	t been renewed.	
26			
27			
	·		
28			

JURISDICTION

- 3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.
- 4. Section 2750 of the Business and Professions Code (Code) provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.
- 5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811, subdivision (b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.
- 6. Section 118, subdivision (b), of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

STATUTORY PROVISIONS

7. Section 2761 of the Code states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

- "(a) Unprofessional conduct, which includes, but is not limited to, the following:
- "(4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a health care professional license or certificate by another state or territory of the United States, by any other government agency, or by another California health care professional licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that action."

COST RECOVERY

8. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case, with failure of the licentiate to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct – Out of State Discipline) (Bus. & Prof. Code § 2761, subd. (a)(4))

- 9. Respondent has subjected his registered nurse license to discipline under Code section 2761, subdivision (a)(4), in that on or about March 19, 2010, in a disciplinary action before the Nevada State Board of Nursing ("Nevada Board"), Case No. 1138-09C, the Nevada Board entered an Agreement for Reprimand ("Agreement") against Respondent's Nevada registered nurse license. The Agreement publicly reprimanded Respondent and required him to take and successfully complete the following courses within the first 12 months of the agreement: (1) Legal Ethics in Nursing for a minimum of 30 contact hours; (2) Critical Thinking in Nursing for a minimum of 30 contact hours; (4) the Nevada Nurse Practice Act web-based course; and (5) Professional Boundaries, presented by Nevada Board staff.
- 10. The Nevada Board's Agreement was based upon the following conduct: On or about November 19, 2009, while working as registered nurse at a hospital, Respondent inserted a drain into a patient's post-operative incision without a physician's order, failed to notify the physician, and failed to document the procedure. Respondent admitted his conduct and acknowledged that it constituted a violation of the Nevada Revised Statutes.

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct – Out of State Discipline) (Bus. & Prof. Code § 2761, subd. (a)(4))

11. Respondent has subjected his registered nurse license to discipline under Code section 2761, subdivision (a)(4), in that on or about May 19, 2011, in a disciplinary action before

the Nevada Board, Case No. 0354-11C, the Nevada Board accepted and approved Respondent's Voluntary Surrender of License/Certificate in Lieu of Other Disciplinary Action ("Voluntary Surrender"). While the Voluntary Surrender became effective on the day it was accepted by the Nevada Board, Respondent agreed to immediately cease and desist from practicing as a registered nurse. The Voluntary Surrender was based upon Respondent's admission that while licensed as a registered nurse during the years 2010 and 2011, he submitted fraudulent prescriptions and obtained controlled substances for his personal use.

DISCIPLINARY CONSIDERATIONS

12. To determine the degree of discipline to be imposed on Respondent, if any,
Complainant further alleges that on or about July 24, 1998, in a disciplinary action entitled "In the
Matter of: Jahn Damien Herrick RN Examination Applicant," before the Alabama Board of
Nursing ("Alabama Board"), the Alabama Board entered a Consent Order accepting
Respondent's application to practice as a registered nurse in Alabama provided Respondent do
the following: (1) agree to accept a Public Reprimand from the Alabama Board for the behavior
described in the Consent Order; (2) agree to refrain from such behavior in the future; (3) pay an
administrative fine; and (4) notify each present and future employer in nursing of the Consent
Order by providing them a copy of it. The Alabama Board's Consent Order was based upon its
findings that on or about April 11, 1996, Respondent pled guilty to theft in the 3rd degree for
attempted shoplifting at a Sears Department Store in Auburn, Alabama. Respondent was ordered
to pay various fees and fines and to not trespass on Sears's property again.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this Accusation, and that following the hearing, the Board of Registered Nursing issue a decision:

- 1. Revoking or suspending Registered Nurse License Number 561178, issued to Jahn Damien Herrick;
- Ordering Jahn Damien Herrick to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and

1	3. Taking such other and further action as deemed necessary and proper.
2	
3	
4	DATED: February 28, 2013 Kine Bur LOUISE R. BAILEY, M.ED., RN
5	\ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \ \
6	Board of Registered Nursing Department of Consumer Affairs State of California
7 8	Complainant
9	SF2013901234
10	11038327.doc
11	
12	
13	
14	
15	
16	
17	
18 19	
20	
21	
22	
23	
24	
25	
26	
27	
28	5

Accusation